

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2832

IN THE MATTER OF:

Served March 5, 1986

Application of OLD TOWN TROLLEY)
TOURS OF WASHINGTON, INC., for a)
Certificate of Public Convenience)
and Necessity to Conduct Charter)
and Special Operations)

Case No. AP-85-30

By application filed October 21, 1985, Old Town Trolley Tours of Washington, Inc. ("Town Trolley" or "applicant"), seeks authority to transport passengers, together with baggage in the same vehicle as passengers:

- (1) in charter operations between points in the Metropolitan District, except between points solely within the Commonwealth of Virginia; and
- (2) in special operations restricted to lectured sightseeing tours between Arlington National Cemetery, Va., and points in Washington, D.C. (including hotels located on Sixteenth Street, N.W., Calvert Street, N.W., New Jersey Avenue, N.W., Woodley Road, N.W., Pennsylvania Avenue, N.W., Wisconsin Avenue, N.W., Massachusetts Avenue, N.W., Connecticut Avenue, N.W., and K Street, N.W.; the Mall area, including the White House, the U.S. Capitol, the National Art Gallery, the Air and Space Museum, the Museums of Natural History and American History, and the Lincoln Memorial; Embassy Row; the Washington Cathedral; the National Zoological Park; the Old Post Office Pavilion; Ford's Theatre; and the Georgetown and Kalorama areas.)

Applicant requests that the authority here sought be restricted to transportation in vehicles configured as trackless trolleys constructed on truck chassis; provided, however, that such operations may be performed in conventional buses when the trolley vehicles are inoperative.

Pursuant to Order No. 2797, served October 29, 1985, and incorporated herein by reference, a public hearing on the matter was

held on December 10, 11, and 13, 1985. Gold Line, Inc. ("Gold Line" or "protestant") timely protested the application and appeared at the hearing to cross-examine applicant's witnesses and to present evidence. Town Trolley presented a company witness and thirteen public witnesses in support of the application. Gold Line presented two witnesses in opposition to the application.

SUMMARY OF EVIDENCE

Christopher C. Belland, Town Trolley's Secretary-Treasurer, testified on behalf of applicant. Town Trolley is a newly formed corporation wholly owned by Historic Tours of America, Inc. ("HTA"). HTA, of which Mr. Belland is secretary and a major stockholder, owns 51 percent of the shares outstanding in Deacon Transportation, Inc. Some of the shareholders of HTA own Key West Trolley Tours. Both companies conduct operations similar to those for which applicant here seeks authority. Key West Trolley Tours operates in Key West, Fla. Since 1980 Key West Trolley Tours has been offering a one and one-half hour continuous loop tour of that island using trolley-like vehicles. In 1985, that service carried 125,000 passengers. Deacon operates a continuous loop tour in Boston, Mass., stopping at that city's major hotels plus selected shopping and sightseeing areas. In 1984, the year HTA acquired control of Deacon's stock, the latter carried approximately 80,000 passengers. In 1985 Deacon transported approximately 140,000 passengers. In addition some of HTA's shareholders, including Mr. Belland, operate a second tour company and a taxicab operation in Key West. Management control of Town Trolley has been vested by its shareholders in Mr. Belland and Edwin O. Swift who together own 45 percent of HTA's stock.

Town Trolley's proposed special operations would consist of lectured sightseeing along a "fixed" 1/ loop. The service would be available at half-hour intervals between 9:30 a.m. and 4 p.m. Passengers could board initially at any stop on the loop including one of several major hotels. Once aboard, passengers have the option of remaining on the trolley for a two-hour lectured riding tour of the city or of disembarking at one or more specified points along the route to sightsee, shop, or dine. Those passengers who opt to leave the tour at any non-hotel stop will be issued a reboarding pass entitling them to reboard any later trolley at that same stop. Because those passengers who would later reboard will be joining a tour in progress, passengers who disembark would be offered substantially the same continuous narrative as passengers who remain on the trolley. Upon reboarding for the final time, passengers would remain on the trolley

1/ The route itself might be varied from time to time due to traffic congestion or special events, but existing stops would be unaffected by change in route. In time, additional hotels and attractions might be added.

for the return trip to their point of origin which in all likelihood would be a hotel. Applicant proposes stops at the Capitol Hill Hyatt Regency Hotel, Old Post Office-Pavilion, Marriott Hotel (with this stop also serving the adjacent Shops at National Place), Steven Decatur House, Capital Hilton Hotel, Mayflower Hotel, Washington Hilton Hotel, Sheraton Washington Hotel, National Zoo, Woodrow Wilson House (with this stop also serving museums in the Kalorama area), and Georgetown Park. The proposed tariff for this service is \$8 for adults, \$3 for children under 12, and \$6 for military personnel, senior citizens, and members of a group of 20 or more persons. Payment of a single special operations fare will entitle a passenger to make a single loop from point of origin returning to the same place.

Applicant would provide the proposed service using vehicles configured to resemble trackless trolleys and seating either 32 or 44 passengers. At this juncture it is noted that, although the application embodies a request that the use of conventional buses be authorized in situations where the trolley vehicles are inoperative, the evidence of record shows (1) that applicant has no intention or desire to operate conventional buses in either special or charter service, and (2) that it has no objection to elimination of its request for authority to utilize conventional buses. The applicant's trolley type vehicles will be heated, equipped with a radio and public address system, and fitted with a wood interior. Although the wood requires extra attention, these vehicles have no special mechanical needs other than a good preventive maintenance program which applicant would have in place and would include regular monitoring of fluid levels, belts, hoses, tire tread and pressure, and electrical systems. In addition each driver would make a "circle check" of his vehicle before taking it out for the day. The check would include a test of brakes and headlights, tires, and the public address system. Applicant has selected trolley-type vehicles because their use as an early mass transit vehicle makes them appropriate to tours which are historic in nature. The public's response to similar vehicles operated in Boston and Key West has been excellent. If this application is granted applicant will begin service with six vehicles, three purchased by Town Trolley and three leased from HTA. Four vehicles will operate the special operations route, one vehicle will serve as back-up for loop operations; the remaining vehicle will be available for charter during the day. Town Trolley's proposed tariff indicates a charter rate of \$160 for the first two hours or fraction thereof of service and \$60 for each additional hour. This rate includes decorations and music plus hors d'oeuvres and drinks. Drivers will participate in a training program conducted by applicant, and will be properly licensed for driving public vehicles and for sightseeing.

With its application Town Trolley submitted a balance sheet dated October 21, 1985, indicating current assets of \$4,500, current liabilities of \$3,500, and capital of \$1,000. A projection of revenues and revenue deductions for the first 12 months of operations submitted

with the application indicates revenues from special operations of \$437,500, from charter operations of \$50,000, and from advertising of \$40,000, resulting in total revenues of \$527,500. Operating expenses for the same 12 months are projected at \$487,250. At the hearing, Mr. Belland sponsored a cash flow statement detailing cash receipts and expenditures projected during a three month period prior to starting operations plus the first 12 months of actual operations. Receipts during that period include \$482,500 funding for Town Trolley raised by issuance of an additional 100 shares HTA offered its existing shareholders. That money will be loaned to Town Trolley by HTA at 1 percent above prime, interest payable over a five-year period with a balloon payment of the principal due at the end of that period. By resolution executed November 29, 1985, HTA has guaranteed all financial losses incurred by Town Trolley and related to WMATC operations. Provision is made for termination of that resolution upon 60 days' prior written notice to the Commission.

Applicant's projected income statement is based on HTA's experience in Boston and Key West. Applicant projects 60,000 passengers in special operations during its first year of service. Revenue has been weighted to reflect the three types of fares applicant proposes to offer. Town Trolley projects 57 hours a month charter service, 10 percent of total operating revenues. The projected income statement and the cash flow statement show comparable estimated expenses with the exception of depreciation which is a non-cash expense and therefore does not affect the cash flow statement, fuel which is slightly higher on the cash flow statement due to a subsequent decision to house the trolleys outside Washington for insurance purposes, and rent which is somewhat higher in the cash flow statement than on the the projected operating statement. The cash flow statement indicates that applicant's cash is not anticipated to fall below \$57,000 during the first 12 months of operations. Interest on the HTA loan is excluded from both statements because that expense will not be paid out of revenues in the first year of operations. Applicant projects an increase in passengers of 50 to 70 percent in year two and an increase of an additional 30 to 50 percent in year three. These increases are similar to those which occurred in Key West and Boston. Interest will be paid out of the increased operating revenues generated in year two. Insurance has been underestimated, but the exact cost of that insurance is not yet known.

Town Trolley's proposed operations have been in the planning stages for 18 months. Mr. Belland's study of the existing market in Washington indicates that it is comparable to the market in Boston, and that Washington has experienced a steady increase in visitors over the past five years.

Richard C. Nelson, vice-president/managing director of the Hyatt Regency Hotel, Washington, D.C., testified in support of the application. Because the Hyatt is located on Capitol Hill, the full

range of transportation services currently available in Washington, including Metrorail, Metrobus, taxicabs, and scheduled airport service, are accessible to its guests. Gold Line offers a structured sightseeing tour from the hotel twice a day. Tourmobile stops less than three blocks from the hotel. Hyatt supports Town Trolley's application because the proposed service is considered unique. It would allow guests to combine sightseeing and shopping. Its 30-minute availability would facilitate its use by conventioners, a group representing 40 percent of the Hyatt's occupancy. Applicant's special operations proposal would differ from existing services by offering lectured sightseeing in combination with opportunities to shop, an activity a study has indicated is enjoyed by convention visitors. Applicant's proposed service would differ from taxi and Metro service by offering lectured sightseeing en route to a shopping destination; it would differ from Tourmobile in that it would focus on areas of interest outside the Mall; it would differ from Gold Line's service by being more frequently available and therefore more convenient for persons attending meetings and conventions who have small blocks of time available in the middle of the day. Town Trolley's service also is envisaged as one which would be used by a person who has already taken a more conventional sightseeing tour of Washington, either during the same visit or on an earlier occasion, or by someone who is primarily interested in shopping but is unfamiliar with the city. If this application were granted, Mr. Nelson would promote its use by allowing tickets for it to be sold in the Hyatt and by informing guests of its availability through the hotel concierge and bellmen. Guests frequently ask hotel employees how to tour Washington. Currently hotel employees describe the services of Gold Line and Tourmobile. If this application were granted, applicant's services would also be described.

The staff at the Hyatt assists hotel guests in arranging charter transportation by giving them a list of companies that would be available for charter service. Guests then make such arrangements as they choose. If Town Trolley's charter application were granted, its name would be added to the list. Due to their design, the vehicles offered by applicant might be of interest to guests.

Pat Archer Jacob, a resident of Georgetown and owner of a small business in that area, supports the application. Ms. Jacob's family owns The French Market, a gourmet shop located on Wisconsin Avenue near Q Street. The surrounding business district contains antique and specialty stores. Dumbarton Oaks is nearby. There is little pedestrian traffic in the area due to its distance from M Street. Ms. Jacob believes Town Trolley's proposed service would be beneficial to Georgetown in general, and to the French Market in particular, by bringing more shoppers to the area. It is six and a half blocks from one of applicant's proposed stops to the French Market, and the next stop is farther away.

Robert Mawson, manager of outreach programs in the office of museum service for the National Trust for Historic Preservation, testified in support of the application. Mr. Mawson's duties are: (1) to encourage attendance at National Trust properties; (2) to oversee the National Trust's public programs; and (3) to provide advisory service to non-Trust historic sites. He supports Town Trolley's application because he believes its proposed service would increase attendance at two Trust sites in the District of Columbia, namely, the Decatur House and the Woodrow Wilson House. Because an admission fee is charged at both sites, an increase in attendance will result in increased revenues. Neither site is currently included on a regularly scheduled sightseeing tour. Mr. Mawson has asked both Tourmobile and Gold Line to include one or both properties on their tours, but both companies declined. If this application were granted, the Decatur House and the Woodrow Wilson House would promote the proposed service by carrying brochures and, if paid a commission, by selling tickets. Mr. Mawson took the trolley tour of Key West offered by applicant's parent company. He was favorably impressed by the tour which provided an historic introduction to the city in combination with a general overview of the area that he would not have had otherwise. He found the equipment both unusual and "fun."

The Decatur House and the Woodrow Wilson House do not currently meet their operating budgets despite income from memberships, merchandise sales, special events, and fund raising. Low attendance at these two sites is attributed to lack of public awareness because they cannot afford to advertise. The two sites are promoted through the National Tour Association and the American Bus Association. At meetings of those associations, tour operators repeatedly ask what is available in the city for persons who have seen the monuments and memorials, and Mr. Mawson then recommends the Trust sites for such people. Criticism is leveled at existing tour companies to the extent that they primarily serve sites for which no admission is charged, to the detriment of historic landmarks such as the Decatur House and the Woodrow Wilson House which have admission fees.

Wesley W. Potter, vice president and general manager of the Rouse Company of D.C., testified in support of the application. Mr. Potter is responsible for The Shops at National Place, an urban shopping mall consisting of over 80 stores in downtown Washington. Mr. Potter is familiar with the type of vehicle Town Trolley intends to use and believes it is excellent and reliable. Mr. Potter supports Town Trolley's application because it would benefit The Shops by bringing more tourists to that area. Because shopping is a recreational activity for many people, tourists tend to set aside a certain amount to spend while on vacation. The Shops' tenants have found that tourists comprise 40 percent of The Shops' visitors. In addition, the rapid revitalization of downtown Washington is a key to The Shops' ultimate success. It is believed that applicant's proposed service will help stimulate the kind of growth and development needed.

Finally, it is considered that Town Trolley's proposed service will be an asset to tourism in Washington in that it will offer something of enjoyment to tourists for whom shopping is incidental to sightseeing.

Persons currently travel to The Shops by Metro, private car or taxi, or tour bus. Although its location is convenient to Metro, and tour buses do come to The Shops, it is not regularly served by a scheduled tour service. Mr. Potter had considered developing a shuttle service between Capitol Hill and The Shops at mid-day, but was unable to find a suitable carrier at the right price. His interest was in scheduled service using a vehicle able to move easily through traffic, and seating about 40 persons. Town Trolley meets these requirements. Town Trolley's proposed service differs from Gold Line's service in that it allows the individual to move at his own pace, selecting what he wants to see and the amount of time he wants to see it. Town Trolley's service also covers a broader area than some Gold Line service. If Town Trolley's application were granted, The Shops would be willing to make literature available to visitors and, for appropriate compensation, to establish a ticket booth.

Ann Mutes Rowe, owner of Travel Host Magazines of Washington, D.C., testified in support of the application. Travel Host Magazine is intended to inform visitors to Washington about what is available to see and do in the area. The magazine is distributed to 54 hotels in the metropolitan area. The tourist industry in Washington has experienced significant growth in the last five years and is expected to continue to grow rapidly for the next two to three years. Ms. Rowe's personal experience in combination with contact with hotel personnel indicates that visitors to Washington use Metro, Gold Line, and Tourmobile. Ms. Rowe supports the application because she believes applicant's proposed service would be different from what is currently available and thus an asset to Washington's tourism industry.

Vicki Sopher, director of the Decatur House Museum, testified in support of the application. The Decatur House Museum is owned by the National Trust for Historic Preservation. Ms. Sopher is responsible for site management, management of the museum, and will be responsible for a reception facility which is currently under construction. Annual visitation to Decatur House is between 10,000 and 14,000. Optimal attendance would be 30,000. It is Ms. Sopher's opinion that Decatur House's optimal attendance figure is not being reached because its advertising budget is very low, and its location, one block from the White House, affords little parking. By placing a stop at the museum, Town Trolley would benefit Decatur House by providing steady attendance of manageable groups of eight to ten people. The size of the tour is important because the interior spaces at Decatur House are not large; the museum staff can give quality tours to small groups but not to large ones. Although Decatur House charges an entrance fee, this does not seem to affect attendance. In

the latter respect, no admission fee was charged in 1976 and attendance was unaffected.

Linda Higgison, president and owner of The Capital Informer, Inc., testified in support of this application. Capital Informer is a convention service company which, among other things, arranges transportation including shuttle systems, charter transfers, and sightseeing tours. Ms. Higgison, a board member of the Georgetown Business Professional Association, also supports the application on behalf of that association pursuant to appropriate authorization. Capital Informer requires large numbers of coaches for its clients. During the week of October 6 to 11, it chartered 198 buses for tours, restaurant and airport transfers, and other services. During that week Capital Informer also offered a service that sold prearranged individually-ticketed sightseeing tours such as those offered by Gold Line. Ms. Higgison supports the application for several reasons: (1) its uniqueness both as to equipment and concept, (2) its high quality, and (3) the beneficial effect which the proposed service would afford to Washington as a whole, to the Georgetown area and its merchants, and to major hotels. If this application is granted, Ms. Higgison intends to purchase both the charter and the special operations services.

Regarding the proposed charter operations, Ms. Higgison has no knowledge of any carrier currently operating in the Metropolitan District which offers charter service in trolley-type vehicles. It is her opinion that the trolleys' novelty will appeal to corporate clients buying not just transportation but an image for VIP service. For the same reason it might be used by local Capital Informer accounts for promotional events, client entertainment and company outings, as well as for customized tours and special evening events. Clients who substitute a caravan of limousines for one or two buses because they object to buses on aesthetic grounds may desire to use trolley-type buses for the cost savings. This service would be used in the District of Columbia; Montgomery and Prince George's Counties, Md., and Alexandria and Fairfax County, Va. The service requirements of approximately 20 percent of Capital Informer's accounts entail provision of five or less conventional coaches for these movements, and applicant's smaller capacity equipment would be suitable for their needs.

The special operations service proposed by Town Trolley is also unique in its flexibility. It is Ms. Higgison's opinion that a tour offering the option of getting off at a number of places en route will have great appeal for families traveling with children too young to tolerate a four-hour ride and for teenagers interested in independence from the rest of the family. By providing frequent pick-ups at regular intervals at major hotels, Town Trolley's proposed service will serve as an acceptable option for those who miss a scheduled tour departure; it will also address the convention market by offering short tours many

times during the day. Inasmuch as only a small percentage of its clients now utilize Gold Line's service, it is not anticipated that use of the proposed service by Capital Informer will have any substantial effect upon Gold Line's operations. Moreover, it notes that the special operations tours proposed by applicant will be much shorter, time-wise, than those of Gold Line; that applicant would serve some points not now being covered by Gold Line; and that patrons of the proposed service, unlike those taking Gold Line's tours, will be able to disembark en route and later rejoin the tour at the same stop. Thus, it is believed that applicant's proposed special operations service will appeal to a new passenger base, i.e., persons who do not normally take tours but may be attracted to applicant's service because of its greater flexibility and its briefer time span.

The Georgetown Business and Professional Association ("GBPA") had attempted to provide trolley service through Georgetown in order to bring more people into the upper Georgetown area to shop and to overcome parking problems in the area. This effort, which was underwritten by the Georgetown merchants, was abandoned due to operating difficulties. Applicant has since bought GBPA's trolley. Ms. Higgison believes Town Trolley will accomplish the GBPA's original objectives despite the fact that applicant will stop in lower Georgetown. A trolley can move through Georgetown streets more easily than a bus. The distance from one end of Georgetown to the other is only six blocks, there are stores along the way, and applicant will bring in people from outlying areas that the Georgetown Trolley did not serve. In addition people will be made aware of Georgetown's historic value en route to and from the area.

Ms. Higgison expects Town Trolley to be an overnight success with interest initially exceeding available equipment. It is her opinion that due to its frequent schedule and flexible structure, applicant will carve out a new market among her clients, most of whom are convention attendees at hotels which will be served by the proposed service.

Anne Fitzgerald, assistant manager of Courtesy Associates' conference and management services department, Washington, D.C., testified in support of the application. Courtesy Associates charters transportation to provide support services for conventions and meetings. The transportation provided includes spouse tours, shuttle systems, and transfers. Although Courtesy Associates primarily handles transportation for large groups, it requires transportation for groups of less than 100 approximately four times a month. Transportation is needed within the District of Columbia and to Alexandria, Mount Vernon, and Wolf Trap, Va., and to Bethesda, Md. Courtesy Associates currently relies on Gold Line, Eyre, and International Limousine for transportation. However, trolley-type vehicles would represent an addition to equipment currently available. The trolley-type vehicles offer the advantage of being more compact and, thus, perhaps more intimate than a

bus for a small group. If this application is granted, Courtesy Associates will use Town Trolley.

Robert W. Mason, interim executive director of Friends of the National Zoo, testified in support of the application on behalf of that organization. FONZ is a membership and support organization for the National Zoo. It operates the Zoo's food, merchandise, and parking concessions. Its purpose is to support the Zoo's education, conservation, and research objectives. Up to 2.75 million people visit the Zoo annually. Ten to 20 percent arrive by public transportation including Metrorail which stops one-half mile from the Zoo's entrance. The remainder arrive by private car or chartered bus. The 900-car capacity of the Zoo's parking lot is often exceeded in summer and on weekends. Town Trolley proposes a tour stop at the edge of the Zoo grounds. In Mr. Mason's opinion, anything that facilitates a non-automobile approach to the Zoo represents a "positive public service." Town Trolley's proposed operations would provide a very useful service for some people. A similar proposal has not been made by any other local company, and Gold Line does not serve the Zoo on its city tour.

Susan Hastings, marketing manager for Homart Development, managing corporation for Georgetown Park, testified in support of the application. Ms. Hastings handles advertising, special events, and promotional events for Georgetown Park, a shopping center located in lower Georgetown and housing 85 shops. A survey conducted in May 1985 indicated that 35 percent of the Georgetown Park shoppers were tourists staying at the better hotels in Washington and the surrounding area. Shoppers currently reach Georgetown Park by foot, private car, Metrobus, or taxi. Georgetown Park is not readily accessible by Metrorail. Town Trolley's proposed stop at Georgetown Park represents an opportunity to increase its clientele by bringing in shoppers who might not otherwise come. Gold Line has not offered a similar service for Georgetown Park. Georgetown Park would promote Town Trolley's service by providing space for a ticket booth.

Rennee Jackson, convention services coordinator for Woodward and Lothrop ("Woodies"), testified in support of the application. Woodies' convention services department opened in May 1985. Its goal is to bring convention delegates and their spouses into Woodies' F Street store for shopping. The store is located one block from the Washington Convention Center. Currently the department makes available a hospitality center to convention groups who reserve it in advance through their own meeting planner. In about six months the department will begin making arrangements for charter transportation directly to the store. No fee would be charged for the service, but groups would pay for the cost of the transportation arranged. Town Trolley proposes stops at the Post Office Pavilion and The Shops at National Place; both locations are approximately three blocks from Woodies. Ms. Jackson sees applicant's proposed service as offering a way to bring conventioners, their spouses, and guests downtown to shop because it

offers passengers the freedom to get on and off and because the planned loop is relatively short. Persons staying at a hotel served by Town Trolley might use the service to get to the Convention Center for half the day, use the other half of the day to shop in the area, and return by applicant's service. It is Ms. Jackson's opinion that convention attendees would be more likely to use applicant's regularly scheduled service than Metrorail. With regard to charter service, Ms. Jackson is of the opinion that applicant's relatively high rates are justified by its unique equipment.

Earl David James, director of the Woodrow Wilson House, Washington, D.C., testified in support of the application on behalf of that institution, and on behalf of the Kalorama Museums Consortium, a federation of seven museums located in the Dupont Circle/Kalorama area of northwest Washington. Town Trolley proposes a stop directly in front of the Woodrow Wilson House. All museums in the Kalorama Consortium are within four blocks of the Woodrow Wilson House. Because these museums are not located near any major Washington tourist attraction such as the Mall, it is difficult to attract visitors. Gold Line drives past the Woodrow Wilson House and pauses outside for a narration. However, it has never offered to serve the house regularly. There is no parking at the Woodrow Wilson House, and visitors arrive by public transportation, taxi, or occasionally by charter bus. Town Trolley's stop would benefit the museums because it would bring visitors directly to Woodrow Wilson House and within range of the other Kalorama Consortium members. These attractions are located in historic neighborhoods, and it is Mr. James' opinion that people would be able to absorb a good deal of the city's history by going through those neighborhoods. If the application were granted, Woodrow Wilson House would sell applicant's tour tickets and would publicize the location of all the museums in the Kalorama area.

Craig Conlon, resident manager of the Marriott Hotel, Washington, D.C., testified in support of the application. Fifty-four percent of the Marriott's business is convention-related. The remainder of the Marriott's guests are business travelers and vacationers. Mr. Conlon supports Town Trolley's application because the proposed type of service is currently unavailable in Washington. The service offered by Tourmobile is similar but limited to a specific area of the city. It is Mr. Conlon's opinion that a service such as applicant proposes is needed for pleasure sightseeing and convention business when doing spouse tours. It also might interest those who have been to Washington previously and those uninterested in more traditional sights. The Marriott, through its concierge desk, currently offers Gold Line tours and limousine service for private tours. Applicant's service would be similar to the limousine tours in that it would cover some major sightseeing attractions and allow people the opportunity to get on and off at those attractions, but the price would be more reasonable. Because of the price differential some people who currently use limousine service for tours would prefer a

service like applicant's. The concierge desk has found that people want transportation for sightseeing tours, but that the sights these people want to see vary.

Mr. Conlon also arranges charter transportation for employee outings about six times a year as well as occasional transportation for corporate meetings and Marriott-sponsored events. In arranging transportation for the latter service, price is not the determining factor; rather he looks for overall service and quality including quality of equipment. He has used the Georgetown Trolley in the past when promoting Washington at a marketing meeting. He likes the trolley because "it gives a different concept." The Marriott would promote Town Trolley's proposed service by making information available to guests at the concierge desk, informing convention groups of its availability, and selling tickets in the hotel.

Charles L. Cummings, vice president and general manager of Gold Line, and Stanley Johnson, Gold Line's comptroller, testified in opposition to the application on behalf of protestant. Gold Line holds WMATC Certificate No. 14 which authorizes it to conduct, inter alia, special operations and charter operations between points in the Metropolitan District. Gold Line conducts these operations using eighty-nine 47-passenger buses and three executive coaches. The equipment is maintained in-house by Gold Line at its facilities in Tuxedo, Md. Gold Line aggressively solicits both charter and special operations business in the Metropolitan District. It maintains an 8-person charter sales department in downtown Washington. Its charter service includes pre-packaged and customized tours, as well as point-to-point transfers. Gold Line's special operations are conducted as a member of the Gray Line Sightseeing Association. Gold Line offers eight tours within the Metropolitan District. It provides up to 21 vehicles a day for sightseeing service in the Metropolitan District during the peak season, but uses as few as six vehicles a day for such service in the off-peak season.

All tours are offered seven days a week. Gold Line makes scheduled pick-ups twice daily at 33 hotels for most tours. An additional 18 hotels are served on call. Pick-ups are made once a day for Tour A, the mid-day two-hour riding tour, and Tour L which features Washington after dark. Persons are picked up at their hotels and moved to a central location from which all Gold Line tours depart. At the end of such tours, the passengers are dropped off at their hotels. This pick-up and drop-off service, during which no lectured sightseeing is offered, adds about one hour to the length of the tours. However, to serve as many hotels as Gold Line serves without the described pick-up and drop-off service would require use of an excessive number of vehicles. Gold Line stops at all hotels which applicant proposes to serve. Four of those hotels sell its tour tickets. Mr. Cummings thinks that Washington will eventually grow as a market for tourism and transportation. Gold Line does not contemplate offering a downtown

tour service wherein passengers would be allowed to disembark and later rejoin the tours. However, Gold Line opposes this application on the basis that it has offered good service in the Washington area over the years and wishes to continue providing that service; that approval of the application would divert charter and sightseeing revenues from Gold Line to its detriment; and that such approval could dilute the sightseeing market so greatly as to make offering that service non-viable.

During 1984 Gold Line had total revenues of \$9,877,185, and a net operating loss of \$869,404. In that same year, its revenue from charter service provided within the Metropolitan District approximated \$2,634,768. If the expenses of the company were allocated between the various transportation services which it provides in proportion to the revenues derived from those services to total revenue, Gold Line's charter service within the Metropolitan District in 1984 would have reflected a net operating loss of \$231,917. During 1984, Gold Line's revenue from sightseeing service provided within the Metropolitan District approximated \$2,356,278. After assigning direct costs to sightseeing service and allocating the remaining expenses among the various transportation services provided by the company in proportion to the revenues derived from those services, Gold Line calculates an operating loss of \$627,384 from its sightseeing operations within the Metropolitan District for 1984.

During the eight-month period ended August 31, 1985, Gold Line had total revenues of \$6,128,250, and a net operating loss of \$718,296. During the same period Gold Line had total revenues of approximately \$1,904,323 from charter service provided within the Metropolitan District. If the expenses of the company were allocated among the various transportation services it provides in proportion to the revenue derived from those services, Gold Line calculates an operating loss of \$223,207 during this eight-month period in the provision of charter service within the Metropolitan District. In this same eight-month period Gold Line's revenue from its sightseeing operations within the Metropolitan District approximated \$1,266,433. After assigning direct expenses attributable to the provision of this sightseeing service, and after allocating the various other expenses among the various transportation services it provides in proportion to revenues, Gold Line calculates an operating loss of \$438,656 during this eight-month period in the provision of sightseeing service within the Metropolitan District.

DISCUSSION, FINDINGS, AND CONCLUSIONS

In determining whether to grant a certificate of public convenience and necessity, we look to the standards enunciated at Title II, Article XII, Section 4(b) of the Compact as follows:

. . . the Commission shall grant a certificate . . . ,
if it finds, after hearing held upon reasonable
notice, that the applicant is fit, willing and able
to perform such transportation properly and to
conform to the provisions of this Act and the rules,
regulations, and requirements of the Commission
thereunder, and that such transportation is or will be
required by the public convenience and necessity
. . . .

Based on a review of the record in this case, we find applicant to be capable of providing the proposed service and willing to conform to applicable rules and regulations imposed by the Compact and the Commission acting pursuant to the Compact.

Town Trolley is a new corporation and thinly capitalized. However, applicant's parent, HTA, has raised an amount equal to Town Trolley's projected operating expenses for the first 12 months of operation. This money will be loaned to applicant at attractive terms. Moreover, any deficit which applicant may incur is guaranteed by HTA. Based on experience with similar sightseeing operations in other cities, Town Trolley has, over a substantial time period, developed a detailed plan of operation. Applicant merely awaits an affirmative decision regarding this application before acquiring equipment, hiring and training drivers, and taking the many other preliminary steps necessary to implement its proposed service. We find that applicant's well-developed plan of operation, patterned on its affiliates' successful operations in other locations and involving the same principals, affords adequate basis from which to conclude that Town Trolley will be able to implement service in the Metropolitan District. Additionally, applicant's representative is familiar with the Compact and the Commission's rules and regulations and is willing to comply with them. Accordingly, we find Town Trolley to be fit operationally, financially, and as to compliance.

We turn now to the matter of whether applicant has satisfied its burden of proving that the public convenience and necessity require the proposed service. To satisfactorily meet its burden of proof on this issue, applicant must show that the proposed operation will serve a useful public purpose responsive to a public demand or need; that this public purpose cannot and will not be served as well by existing carriers; and that this public purpose can be served by applicant without impairing the operations of existing carriers contrary to the public interest. In re Pan-American Bus Operations, 1 MCC 190, 203 (1936).

Applicant produced 13 public witnesses including representatives of specific tourist attractions, shopping centers, and hotels along the loop Town Trolley proposes to serve in special operations. The testimony of these witnesses shows that Town Trolley's

proposed service would be unique in four ways: (1) the offering of frequent and regular service along a fixed loop; (2) the opportunity for passengers to disembark at specified points along that loop at their discretion and to reboard at a later time; (3) the geographic area to be served; and (4) the type vehicle used. Hotel representatives and convention brokers are persuaded that applicant's offering of brief sightseeing tours throughout the day would be particularly advantageous to conventioners who often have only brief periods of unscheduled time in which to see the city. Representatives of shops, shopping areas, and hotels are convinced that shopping is a major recreational activity for many convention visitors and tourists. Thus, a service such as applicant's would provide persons unfamiliar with Washington ready access to several major shopping areas and speciality stores, time to shop, and transportation to and from their hotels. The proposed service would make stops at attractions of historic value which currently have low attendance because they are little publicized and, therefore, relatively unknown to the touring public. It also would stop at the National Zoo which is a major public attraction but is regularly served only by Metro. Thus, it is clear on the record that Town Trolley's proposed special operations service will serve a useful purpose responsive to a public need relative to the area set forth in the application, with the exception of Arlington National Cemetery and the Mall area. In this respect, there is no evidence regarding need for additional service in the Mall area or Arlington National Cemetery. Moreover, we note that several of applicant's operating witnesses alluded to the existence of Tourmobile which offers similar service on those properties. For these reasons, we cannot and do not find that applicant's proposed special operations would be responsive to a public demand or need outside the area dealt with on this record.

The evidence does support a need for specialized charter service such as applicant proposes for specific types of accounts and events in the District of Columbia, Montgomery and Prince George's Counties, Md., and Alexandria and Fairfax County, Va.

For the combination of reasons put forth by applicant's witnesses, we further find that neither applicant's special operations service nor its charter service can and will be provided as well by existing carriers. Taking official notice of Commission records we find that no certificated carrier currently offers special operations service of the type proposed and in the area applicant's described loop would serve. Furthermore, protestant Gold Line concedes that it does not even contemplate offering a similar type of service.

Although the essence of the uniqueness of applicant's proposed special operations is the ability to enter and leave an on-going lectured sightseeing tour being offered in an area not currently served by existing carriers, the essence of the uniqueness of its proposed charter operations is the vehicles themselves. The vehicles offer

increased exposure to the area being traversed, easier maneuverability and, due to their small size and unusual appearance, can be decorated ^{2/} as might be appropriate to the purposes of the chartering groups. For these reasons we find that applicant's charter service cannot be as well provided by existing carriers.

This brings us to the final aspect of the Pan American analysis: whether the proposed service can be provided without endangering the operations of existing carriers contrary to the public interest. Gold Line operated at a deficit in 1984 and to date in 1985. Although it seems probable that granting this application will divert some special operations and charter revenues from Gold Line to Town Trolley, this diversion will be de minimus. Much of the business generated by Town Trolley's special operations would never have gone to Gold Line in the first place but would consist of passengers who have previously taken Gold Line's tour or who, due to time constraints or personal preference, would not have used Gold Line's service at all. With regard to applicant's proposed charter service we note that, initially, Town Trolley will have a single vehicle available during the day and no more than six vehicles available after 6 p.m. It considers movements of 50 to 150 persons to be large movements, and charter revenues in its other operations approximate only 10 percent of the gross revenues of those companies. Applicant projects similar revenue proportions in Washington. These factors in combination with a recognition of recent cost savings and service improvements instituted by Gold Line lead us to find that that company's charter service will not be so harmed as to affect its ability to serve the public.

One last matter merits consideration. The application contains a request for authority to operate conventional buses when trolley vehicles are inoperative. This request is not supported by any evidence of record. Rather, the evidence establishes that applicant has no intention or desire to operate conventional buses in either special or charter service. Moreover, although no motion to amend the application was made at the hearing, applicant specifically disclaimed any objection to elimination of the request to utilize conventional buses. Applicant's somewhat candid position on this matter reflects an awareness of the importance of its unique trolley-type equipment as a major factor in this case. The Commission believes that, if applicant wants to carve out a niche based in part on unique equipment, it must provide a sufficient amount of such equipment to assure performance of service in the manner proposed. For the foregoing reasons, we shall restrict the grant of authority to service in trolley-type vehicles

^{2/} We caution applicant that the cost of such items as decorations, music, food, and beverages will be considered to belong "below the line" and should be excluded from any figures which Town Trolley might present as evidence in support of a rate increase.

only, and the requested standby authority to operate conventional buses will be denied.

THEREFORE, IT IS ORDERED:

1. That Old Town Trolley Tours of Washington, Inc., is hereby granted authority to transport passengers over irregular routes:

(A) in special operations, restricted to lectured sightseeing tours, between hotels in Washington, D.C., located on Sixteenth Street, N.W.; Calvert Street, N.W.; New Jersey Avenue, N.W.; Woodley Road, N.W.; Pennsylvania Avenue, N.W.; Connecticut Avenue, N.W.; and K Street, N.W.; and the Old Post Office-Pavilion, Steven Decatur House, National Zoological Park, Woodrow Wilson House, and Georgetown Park; and

(B) in charter operations, between points in the District of Columbia, Montgomery and Prince Georges Counties, Md., Fairfax County and Alexandria, Va., except between points located solely within the Commonwealth of Virginia.

RESTRICTED, in (A) and (B) above, to transportation performed in vehicles configured as trackless trolleys constructed on truck chassis.


2. That in all other respects the application of Old Town Trolley Tours of Washington, Inc., is hereby denied.

3. That Old Town Trolley Tours of Washington, Inc., is hereby directed to file the following: (a) a list of equipment indicating the make, model, serial number, license plate number, vehicle identification number, and ownership of all vehicles which it will use to conduct charter or special operations; (b) equipment leases in accordance with Commission Regulation No. 69 and covering all vehicles not owned by applicant; (c) an affidavit of identification of vehicles in accordance with Commission Regulation No. 68 for which purpose WMATC No. 124 is hereby assigned; (d) a certificate of insurance in accordance with Commission Regulation No. 62; and (e) two copies of its WMATC Tariff No. 1.

4. That unless applicant complies with the requirements of the preceding paragraph within 30 days, or such additional time as the Commission may direct, the grant of authority herein shall be void, and

the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:



WILLIAM H. MCGILVERY
Executive Director

